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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,337	06/09/2006	Torsten Eberl	101194-100	5402
27387 7590 11/25/2008 NORRIS, MCLAUGHLIN & MARCUS, P.A. 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			EXAMINER O BRIEN, JEFFREY D	
			ART UNIT 3677	PAPER NUMBER
			MAIL DATE 11/25/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/596,337

Applicant(s)

EBERL, TORSTEN

Examiner

Jeffrey O'Brien

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lautenschlager (US 5,347,687) herein referred to as '687, in view of Knowlton (US 3,534,936) herein referred to as '936.

4. For Claim 1, '687 teaches a hinge housing (Fig. 1: 10) constructed as a push-in cup which can be installed countersunk in an opening (18) in the inner face of the wall (16a) of a door leaf (16) of a piece of furniture formed in the installation region from thin-walled metal, wherein the hinge housing has a cup part (12) produced from metal and has projecting integrally from its upper edge a fixing flange (Fig. 6: 22) which in the properly installed position on the door leaf (16) covers the region of the inner face of the door leaf adjoining the opening (18) in the door leaf and wherein the hinge housing has

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a liner plate (14) which is disposed between the fixing flange (22) and the inner face of the door leaf, has a corresponding opening (Fig. 8) for the cup part (12) to pass through in the region of the opening (18) in the door leaf (16) and can be fixed together with the hinge housing on the inner face of the door leaf (16), characterized in that the liner plate (14) has in the edge region of its opening (Fig. 8) corresponding to the opening (18) in the wall (16a) of the door leaf (16) resilient latching tabs (32) which project into the opening (18) in the door leaf (16) and which in the proper fixing position of the liner plate (14) engage around the edge region of the opening (18) in the door leaf (16) so as to latch on the inner face of the wall, and two through openings (20) in the wall (16a) of the door leaf (16).

5. '687 does not teach that in the liner plate at least two through openings spaced from one another provided in alignment with the two respective associated through openings and that in alignment with the through openings in the liner plate and the wall of the door leaf through openings are provided in the fixing flange through which the shanks of fixing screws are passed, the end regions of the fixing screws remote from the screw head and provided with a screw thread being screwed in each case into a complementary matching thread in a clamping plate, the outer boundary of which corresponds substantially to the outer boundary of the opening in the wall of the door leaf, and that between the flat face of the liner plate facing the wall of the door leaf and the boundary surfaces of the clamping plates facing it there is disposed in each case a resiliently deformable fixing body through which the shank of the fixing screw passes and which in the undeformed state has an outer boundary which corresponds

substantially to the boundaries of the openings in the wall of the door leaf as well as the clamping plate.

6. '687 does however teach the use of two projections (28) projecting from the liner (14) and passing through the two through holes (20). '936 teaches a fastener element (Fig. 2) which is passed through an aperture and engages a clamping plate (18) which engages a resiliently deformable fixing body (10). Upon rotation of the fastener head (24) the resiliently deformable fixing body (10) deforms and engages the aperture. It would be obvious to one of ordinary skill in the art at the time of the invention to further secure the projections of '687 with through holes in both the liner plate and fixing flange (such as the apertures 40 and 42 of '936) with a fastener as seen in Figure 3 of '936 in order to allow for the hinge housing to be removably attached in a way that isolates it from vibration damage to the hinge housing and wall on which it is mounted.

7. For Claim 2, '687 as modified by '936 teaches the hinge housing as claimed in claim 1 having through openings in the liner plate (14) extend centrally through centering lugs (Fig. 11: 28) which project from the flat side of the liner plate (14) facing the wall (16a) of the door leaf (16) and of which the outer boundaries correspond in each case in a complementary manner to the boundaries of the respective associated through openings (20) in the door leaf wall (16a) and of which the length is at most equal to the thickness of the wall (16a).

8. For Claim 3, '687 teaches the hinge housing as claimed in claim 1, characterized in that a plurality of resilient latching tabs (32) are provided which project from the underside of the liner plate (14), are distributed over the circumference of the opening

(Fig. 11) thereof and engage in a latching manner around the opening (18) in the door leaf wall (16a) in the proper installation position.

***Allowable Subject Matter***

9. Claims 4-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Inventorship***

10. In view of the papers filed 4/19/2007, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding Markus Herper as a co-inventor.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

***Response to Arguments***

11. Applicant's arguments filed 9/17/2008 have been fully considered but they are not persuasive.

12. Applicant argues that the references teach wherein the hinge housing "is isolated from vibration damage to the hinge housing and the wall on which it is mounted" in contract to the hinge housing of the present application which "is to be secured rigid to a

door". Examiner is unclear as to the argument being made, but will address the two topics which could possibly be being argued here.

13. Firstly, if Applicant is intending to argue that the references teach a wall instead of a door, it is noted in the first line of the abstract of '687 that the hinge housing is for installation in an opening "in a thick sheet wall of a door". As a result, the "wall" being referenced is the wall of a door.

14. Secondly, if Applicant is intending to argue that the references do not teach wherein the hinge "is secured rigid", it is noted that there are no such limitations in the claim. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., rigid) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

15. It is further noted that nowhere in the specification as originally filed, is the hinge housing disclosed as a "rigid" attachment. **Applicant is cautioned against adding any New Matter in future amendments.**

### ***Conclusion***

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey O'Brien whose telephone number is (571)270-3655. The examiner can normally be reached on Monday through Friday 8:00am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor Batson/  
Supervisory Patent Examiner, Art Unit 3677

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